



**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF NEW YORK**

FJS / GJD

KIMBERLY M. PAVIA-WILLIAMS

Plaintiff(s)

vs.

ONONDAGA COMMUNITY COLLEGE

AND COUNTY OF ONON. **Defendant(s)**

Civil Case No.:

06-CV-0083

**CIVIL
 RIGHTS
 COMPLAINT
 PURSUANT TO
 42 U.S.C. § 1983**

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. **Plaintiff:** KIMBERLY M. PAVIA - WILLIAMS
Address: P.O. Box 9303
SYRACUSE, N.Y. 13290

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. **Defendant:** ONONDAGA COMM. COLLEGE
Official Position: COLLEGE ATTORNEY
Address: JOSEPH PACHECO, ESQ.
441 SOUTH SALINA ST., ROOM 364
SYRACUSE, N.Y. 13202

- b. Defendant: ONONDAGA COUNTY
Official Position: COUNTY ATTORNEY
Address: 421 MONTE GOMERY ST.
SYRACUSE, N.Y. 13202
12TH FLOOR CIVIC CTR.
- c. Defendant: _____
Official Position: _____
Address: _____

Additional Defendants may be added on a separate sheet of paper.

4. **FACTS**

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary.)

(SEE SEPERATE SHEETS LABELED COMPLAINT.)

5.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

COUNTY EMPLOYEES SHOWED NEGLIGENCE IN LEAVING PUDDLES OF WATER AND SLUSH IN SCHOOL LANDING AND STAIR CASE FOR MORE THAN HALF A DAY. I SLIPPED IN A PUDDLE ON THE LANDING, FALLING DOWN THE WHOLE FLIGHT OF STAIRS.

SECOND CAUSE OF ACTION

I WENT TO THE SCHOOL NURSE, WHO REFERRED ME TO MY PERSONAL PHYSICIAN. IT WAS LATER DETERMINED THAT I HAD A FRACTURED WRIST. ALSO THAT I HAVE PERMENANT NERVE DAMAGE TO MY NECK AND BACK, AND MAY NEED AN OPERATION.

THIRD CAUSE OF ACTION

THE ONONDAGA COUNTY COLLEGE ATTORNEY CONTINUES TO OFFER ME \$1000.00. I HAVE BEEN SUFFERING FOR 2 YEARS AND 4 MONTHS, AND I FEEL THAT THE OFFER IS ABSURD. I SEEK DAMAGES MORE THAN \$5,000.00 SO I FILED A LAWSUIT IN FEDERAL COURT, BUT TO BE DETERMINED BY A JURY.

6. Plaintiff(s) demand(s) a trial by

Jury -or- Court

(Circle only one).

7. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

I ASK THAT I BE GIVEN A TRIAL DATE, AND IN THE
EVENT THAT I WIN THE TRIAL, I ASK THAT I BE
COMPENSATED FROM 1-23-03 WHEN THE INCIDENT
OCCURRED AND ALL BILLS RELATING TO ABOVE SAID
INCIDENT BE PAYED FOR BY THE DEFENDANTS.

I declare under penalty of perjury that the foregoing is true and correct.

DATED:

1/23/06

Kimberly M. Williams

Signature of Plaintiff(s)
(all Plaintiffs must sign)

State of New York
County of Onondaga

On this 23rd day of January 2006 before
me a notary public came Kimberly M. Williams
who signed the above and acknowledged
that she signed the same.

Barbara L. Mayne

BARBARA L. MAYNE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MA4756787
Commission Expires June 30, 20 06

FORM E (1) (a) .4

Kimberly M. Pavia-Williams
Post Office Box 9303
Syracuse, N.Y. 13290

To Whom It May Concern:

On or about January 23, 2003 I was leaving my 3rd period class at Onondaga Community College, in the Academic Building. As I approached the stairs I slipped in a puddle of water and slush, causing me to fall down the whole flight of stairs.

I went to the nurse's office to be examined for my injuries. At the time the nurse stated to me she really couldn't do much, and I should see my personal physician, she wrapped my arm up and I left. I went back to see if anyone located any of my belongings, and I noticed the stairs and landings still wet with puddles, and they remained like that much of the semester.

The Onondaga Community College and County of Onondaga employees showed negligence in leaving puddles of water on the landings and stairs throughout the morning. This incident did not occur before or after my first period class. The County employees had time to get up some, if not all of the water while students were in class, two or three different times during the morning classes, but neglected to do so. They never even put up a caution wet floor sign; there were puddles of water on both the stairs and all of the landings. I was wearing timberland construction, with oil resistance; so it was not my fault do to footwear.

As a result of this negligence my neck and back are permanently damaged for life. The injuries sustained are as follows: Para central herniation L/4, L/5 levels, lumbar radiculopathy (nerve damage), broken left wrist, cervical radiculopathy, right impingement, also on and off paralysis.

Doctors recommend that I receive nerve blocks, which are shots in my spine for pain. Due to the fact I suffer from blood disgracia (my platelets don't clot) I can't receive this kind of treatment. If I were to receive these shots in my spine, I may bleed, which could possibly cause me to become paralyzed. Therefore, this is not an option. Doctors have also suggested aqua-therapy which would be helpful, but I have only Medicaid for insurance, this treatment is not affordable for my coverage. So I have to deal with this pain, I cannot describe everyday on and off for the last two and a half years.

The Onondaga Community College and County of Onondaga has insurance for such said reasons. However, they would not pay for me to have an M.R.I., or for me to receive the treatment I need. The College Attorney Joseph Pacheco continues to offer me a thousand dollars (\$1,000.00) for my injuries. Their offer could not even pay for my first hospital bill.

There are certain things I am unable to do because of my injuries. I have missed work, unable to return to college, because I cannot sit or stand for long periods of time. I am unable to lift anything more than 15 lbs. I am unable to drive; writing with my right hand bothers me. I am unable to type on the computer, and I cannot sleep at night. I have made over 30 trips to the emergency room at night, since the incident in January 2003. I do not know what I am going to do? The worst part is I am only 25 years old. I have not carried a child yet and I don't know if it will be too much strain on my neck and back. I am going through so much, both mentally and physically. For the last two years things have not gotten better, but have been worse. I feel my condition is like this because lack of medical treatment, and missing out on more effective physical therapy.

The Onondaga Community College and County of Onondaga continues to offer me a thousand (\$1,000.00), although they have insurance. The college and county are worried about saving some money, I am worried that one day my body might lock up on me permanently because I did not receive the best medical treatment possible. The County of Onondaga has doctors they can send me to, as well as Onondaga Community College.

I would like to have a trial by jury, so they can acknowledge all of the night visits to the emergency room for over two years. Also, for the jury to compensate me for pain and suffering and the chance to receive the best medical treatment possible. Also, for someone to look at the petty offer of a thousand dollars (\$1,000.00) and my life may be ruined permanently.

I was only a person going to school, doing the right thing, working on my career. I did nothing wrong, this was not my fault, if I could have prevented it, I would have. Somebody has to be held responsible.

Thank you for taking time out to review my complaint. I ask that I be supported in my seek for medical treatment and compensation.

Very Truly Yours,

Kimberly M. Williams



ONONDAGA COMMUNITY COLLEGE

4941 Onondaga Road • Syracuse, NY 13215-2099

Biology Department

November 1, 2004

To Whom It May Concern:

In January ,2003 I witnessed a woman falling down the stairs on the second floor of the Academic Building. As it was a very snowy day, the landing and steps were wet . It looked like a very bad fall as she went down the stairs mostly on her back and from what I remember, just about the whole flight. When I reached her she was very upset. I told her to make sure she went to the school nurse to report her fall so that it was on file with the college. She was angry and very shaken, listened to what I had to say, picked up her fallen books, etc.and left. I was so concerned that I even looked in the Ladies room to see if she went to pull herself together, and to make sure she did, indeed, go to the nurse's office. I couldn't find her.

I believe it was the next day or so when the college nurse put an allusers to all employees on email asking if anyone witnessed a fall by a student on a certain date and time of day in Academic Bldg. I immediately replied that I had witnessed the fall and found out the girl's name was Kimberly Pazia.

My hope is that this verification statement will help get Kimberly the testing and medical attention that she needs.

Sincerely,

A handwritten signature in cursive script that reads 'Margaret A. Collins'.

Margaret A. Collins

Biology Secretary

Onondaga Community College

Onondaga Community College

Office Visit Record

Date 1/23/03 Time 12 NoonName Kimberly Anna Birth Date 12/18/79Address 8204 Rock Rd. Herkville NY 13082Phone No. [REDACTED]

Problem/Complaint:

Fell descending steps 3rd floor Academic building
landing on buttocks or left arm. Kimberly was landing
down in her left arm at the top of the incident.
Kimberly reports the stairs were very wet.

Allergies NoneExisting health problems Asthma Rx Advair Inhaler

Assessment Temp. _____ BP _____ Pulse _____ Resp _____

Area in Distal area, 2 areas slightly discolored
above & below Distal
No apparent deformities

Full ROM -

Minimal swelling

Slight pain & tenderness in Distal.

Recommendation wrapped wrist in elastic bandage -
ice pack applied
advised to keep elevated, ice & rest
for 24 hours
if problems develop - see personal
physicians

Signature Betty O'Connor RN CNP Reviewed by _____

BETTY O'CONNOR, RN CNP
 Coordinator of Health Services
 Onondaga Community College
 Syracuse, NY 13215-2099

MARRIS & BARTHOLOMAE, P.C.
ATTORNEYS AND COUNSELLORS AT LAW
317 MONTGOMERY STREET
SYRACUSE, NEW YORK 13202

WILLIAM R. BARTHOLOMAE
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MARGARET A. MARRIS
KARIN H. MARRIS
THOMAS D. MARRIS

Telephone: (315) 472-6417
Fax: (315) 472-2909
EMail: MarrisBartholomaeLaw@MSN.COM

June 10, 2004

Ms. Kimberly Pavia
8004 Peck Road
Kirkville, New York 13082

**Re: Kimberly Pavia v. Onondaga Community College and the County of
Onondaga**

Dear Kim:

I am writing to advise you that I just spoke to the attorney for Onondaga Community College, and they are willing to come up with One Thousand Dollars (\$1,000.00) to resolve your case.

Please call me upon receipt of this letter so we can discuss how you would like to proceed.

I look forward to hearing from you.

Very truly yours,

William R. Bartholomae

WRB:kfl



PRIMARY CARE CENTERS CONSULTATION FORM

☐ Family Practice
301 Prospect Ave.
Syracuse, NY 13203
Team 1 (315) 448-5491
Team 2 (315) 448-5492
Team 3 (315) 448-5493
Fax (315) 448-6203

☐ Maternal Child Health Ctr
516 Prospect Ave.
Syracuse, NY 13208
☐ Peds (315) 703-5270
Fax 703-5271
☐ OB-GYN (315) 703-5200
Fax 703-5201
Medical Records 703-5257

☐ Westside Family Health Ctr.
216 Seymour Street
Syracuse, NY 13204
(315) 703-2600
Fax (315) 703-2621

☐ Specialty Services
301 Prospect Ave.
Syracuse, NY 13203
(315) 448-5480
Fax 448-6264
☐ Infectious Disease
(315) 448-6253
Fax 448-6264

PURPOSE OF CONSULTATION: ☐ Diagnosis ☐ Treatment ☐ Follow up

PATIENT Williams, Kimberly DOB 1/1/77 PHONE 607-448-XXXX

REFERRED TO Pain Clinic PHONE _____

DATE REFERRED 3/14/05 DATE OF APPOINTMENT _____

INSURANCE AUTHORIZATION # _____

DIAGNOSIS Low Back Pain; (L) Paracentral herniation @ L4-L5 level.

PERTINENT HISTORY / PHYSICAL / LAB _____

CT. 1/5 -> Herniation L4-L5 level

Low back pain s/p -> Fall down stairs

in Jan 2003.

9 radiologically.

PLEASE SEND:

☐ Prob list ☐ Med list

☐ Database

☐ Growth Chart

☐ Page #s

☐ Lab ☐ CBC ☐ Chem

☐ Other _____

Sent By _____

Date Sent _____

Referring Provider Signature Sharon Unby Printed _____

For FPC referral to MCHC OB/GYN: FPC Attending Name _____ ☐ Note in chart

CONSULTANT DOCUMENTATION:

DATE SEEN _____ DIAGNOSIS _____

RECOMMENDATIONS/PLAN OF CARE _____

☐ PATIENT DID NOT KEEP APPOINTMENT ON _____

CONSULT SIGNATURE _____ PRINTED _____ DATE _____

RETURN COMPLETED FORM TO REFERRING PROVIDER

11098 9/03

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317 MONTGOMERY STREET
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EMail: MarrisBartholomaeLaw@MSN.COM

March 25, 2005

Joseph Pacheco, Esq.
Law Offices of Laurie G. Ogden
441 South Salina Street
Room 364
Syracuse, New York 13202

Re: Kimberly Pavia v. County of Onondaga

Dear Joe:

While I am fully aware of the many conversations we have had concerning my client I am enclosing herewith a copy of the latest report from St. Joseph's Imaging, showing that my client has a left paracentral herniation of the L4-5 level, which is severely impacting on her life.

I would, based on the foregoing, once again respectfully request that your client consider doing something more than the Thousand Dollars (\$1,000.00) that has been, to this point, generously offered.

I look forward to hearing from you.

Very truly yours,

William R. Bartholomae/jlb
William R. Bartholomae

WRB:jlb
Enclosure